

Meeting Date: 4/11/06

# AGENDA REPORT

Agenda Item #

581



City of Santa Clara, California



**DATE:** April 7, 2006

**TO:** City Manager for Council Information

**FROM:** City Clerk

**SUBJECT:** Budget and Timeline Information Regarding Potential Binding Arbitration Measure for November, 2006 Election

## **EXECUTIVE SUMMARY:**

At the meeting of March 21, 2006, the City Council requested budget and timeline information regarding a potential binding arbitration measure on the November, 2006 ballot. Elements of the budget and timeline information are different depending on if the measure is a successful or unsuccessful initiative, or if it is placed on the ballot by the City Council. See below for more information.

## **Budget:**

The below outlined budget estimates cover three potential costs to the City of Santa Clara surrounding a potential initiative driven or council approved ballot measure. Please note, these costs do not include the consideration of staff time.

**1). Signature Verification:** If the circulators of the petitions do not submit the required number of signatures (approximately 4400), the petition fails and there is no cost to the City. If the circulators do submit the required number of signatures, these will need to be verified by the Registrar of Voters. The Registrar will first do a random sampling of 500 of the submitted signatures. The costs for the verification of the initial 500 signatures is approximately \$2,500.

The petition qualifies for the ballot if the verification indicates that more than 110% of the required signatures have been gathered. The petition fails if less than 95% of the signatures are valid. If the sample indicates that between 95% -- 110% of the signatures are valid, then the Registrar of Voters does a verification of all signatures. The cost of verifying all of the signatures is approximately \$19,600.

**2). Election Costs:** If the petition fails to qualify, there are no additional costs to the City of Santa Clara. If the petition does qualify, then the City Council is obligated to either enact the item into law, or place the item on the ballot for election. Approving binding arbitration would require a City Charter amendment and cannot be enacted by the City Council, therefore the Council would be obligated to place the item on the ballot. The City Council may also choose to proactively place the measure on the ballot outside of the formal initiative

process. In either case, the most recent estimate from the Registrar of Voters for placing a ballot measure on the November, 2006 election cycle is \$57,111. See Attachment 1 for more information.

**3). Publishing and Translation Costs:** Some nominal publishing costs will be necessary for the measure. In addition, the Help America Vote Act foreign language translation requirements for initiatives, recalls and referendums is still being considered by the courts. New opinions have been provided as recently as last month, with a number of cases still pending. In consulting with the City Attorney, these requirements are unclear and may or may not have a financial impact to the City. To cover the publishing and potential translation costs, an additional 10% of the election cycle budget is recommended, which is \$5,711.

**Budget Review:** For the sake of discussion, find below three possible budget scenarios:

**Unsuccessful Initiative Process:**

Signature Verification:	\$0 -- \$19,600
Election Costs:	\$0
Pub and Translation:	\$0
Total:	\$0 -- \$19,600

**Successful Initiative Process:**

Signature Verification:	\$2,500 -- \$19,600
Election Costs:	\$57,111
Pub and Translation:	\$5,711
Total:	\$65,322 -- \$82,422

**Measure Placed by Council:**

Election Costs:	\$57,111
Pub and Translation:	\$5,711
Total:	\$62,822

**Timeline:**

Due to the independent nature of the initiative process, it is impossible to provide a definitive timeline. However, there are some dates that are static and guidelines that are relevant. Please note that this is not all-encompassing, is subject to change and should not be used as a guideline for the initiative process:

**March 15<sup>th</sup>, Notice of Intent:** Notice of Intent to Circulate Petition was filed with City Clerk. See Attachment 2 for more information.

**March 30<sup>th</sup>, Ballot Title and Summary:** Impartial Ballot Title and Summary was provided by City Attorney. See Attachment 3 for more information.

**Date TBD, Publishing:** Publishing of the Notice of Intention and the Ballot Title and Summary in an adjudicated newspaper of general circulation for the City of Santa Clara.

**Date TBD, Proof of Publication:** Proof of publication provided to the City Clerk.

**Date TBD, Signature Gathering:** Petitioners are provided up to 180 days from the time of receipt of the Ballot Title and Summary to circulate petition and gather signatures. Note, this timeframe may in-effect be shorter, depending on the Registrar of Voters requirements for signature verification and the calling of the election.

**Date TBD, Signatures Submitted:** Signatures are submitted to the City Clerk. The City Clerk does a raw count of the signatures and if found adequate, submits them to the Registrar of Voters for verification.

**Date TBD, Random Sample Verification:** The Registrar of Voters has within 30 working days of their submission to confirm the raw count of signatures and verify a random sampling of 500 signatures. If the sampling indicates that more than 110% have been collected, the initiative is validated and qualifies for the ballot. If less than 95% are collected, the initiative fails.

**Date TBD, Full Universe Verification:** If the initial random sampling indicates that 95% – 110% of the valid signatures have been collected, the Registrar will be required to verify all of the signatures. The Registrar of Voters has within 60 working days of their submission to verify all signatures.

**July 11<sup>th</sup> and 18<sup>th</sup>, Calling of Election:** The last two scheduled City Council meetings in which the Council could call the election.

**August 11<sup>th</sup>, Registrar Election Deadline:** The Registrar of Voters' deadline for calling an election.

**Dates TBD, Arguments:** Following the call for election, the normal pro and con argument, and rebuttal argument process is implemented.

#### **ADVANTAGES AND DISADVANTAGES OF ISSUE:**

The advantages and disadvantages considered by the Clerk's Office relate to the election process and not to the policy issue of binding arbitration.

Both the public-driven initiative process and the Council placing an item on the ballot have potential costs associated with them.

Should the City Council choose to move forward with placing the item on the ballot, adequate time for public involvement in the election process will be necessary to ensure fairness. Currently, there is adequate time to do so.

#### **ECONOMIC/FISCAL IMPACT:**

Estimated costs for a potential binding arbitration measure on the November, 2006 ballot for an unsuccessful initiative process are \$0 -- \$19,600, for a successful initiative process are \$65,322 -- \$82,422, and if the measure is placed by the City Council, \$62,822.

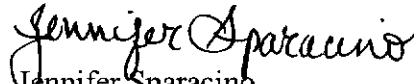
**RECOMMENDATION:**

This report pertains to a study session, there is no recommendation.

APPROVED:



Rod Diridon, Jr.,  
City Clerk



Jennifer Sparacino,  
City Manager

*Documents Related this report:*

Attachment 1: Budget

Attachment 2: Notice of Intent

Attachment 3: Ballot Title and Summary

**SANTA CLARA COUNTY REGISTRAR OF VOTERS  
ESTIMATED COST OF ELECTION  
FOR THE CITY OF SANTA CLARA  
NOVEMBER 2006 GUB. GEN. ELECTION**

**DATA**

Registration as of 11/11/05  
Projected Registration by Nov 2006  
Estimated No. of Sample Ballots (rounded to the nearest 1,000)  
Number of Issues (Mayor, 2 Council Seats, and 1 Meas)

**REVISED ESTIMATE**

44,592  
51,281  
51,000  
4

*Attachment 1*

**COMPUTATION**

	No. of Issues	EST. COST OF ELECTION WITH 3 SEATS & 1 MEASURE REVISED EST - 2/23/06		EST. INCREMENTAL COSTS FOR EACH ADDL MEAS REVISED EST - 2/23/06		REVISED TOTAL COSTS W/3 SEATS & 2 MEAS	
		Unit Cost	Total Costs	Unit Cost	Total Costs		
(a) Base charge							
1st Issue - Mayor	1	\$ 0.66	\$ 33,845				
3 add'l issues - City Council Seat #2 & #5 & Meas	3	\$ 0.20	\$ 30,768	\$ 0.20	\$ 10,256	\$	74,870
(b) DRE Recovery Fee							
1st Issue - Mayor	1	\$ 0.24	\$ 12,307				
3 add'l issues - City Council Seat #2 & #5 & Meas	3	\$ 0.05	\$ 7,692	\$ 0.05	\$ 2,564	\$	22,564
(c) Absentee Voter Charge							
1st Issue - Mayor	1	\$ 0.17	\$ 8,718				
3 add'l issues - City Council Seat #2 & #5 & Meas	3	\$ 0.04	\$ 6,154	\$ 0.04	\$ 2,051	\$	16,923
(d) Est. Shared Ballot Printing Costs							
1st Issue - Mayor	1	\$ 0.50	\$ 25,640				
3 add'l issues - City Council Seat #2 & #5 & Meas	3	\$ 0.13	\$ 19,230	\$ 0.13	\$ 6,667	\$	51,537
Estimated cost of election (Shared)		\$ 1.99	\$ 144,355	\$ 0.42	\$ 21,538	\$	165,893
(e) Estimated Cost of Proposition Pages (Specific)							
Estimated Cost of Candidate Statements (w/4 cand per seat) (Specific)			\$ 25,073			\$	71,147
Total Estimated costs of election and sample ballot's candidate statement & proposition pages			\$ 205,002		\$ 57,111	\$	262,114

**ESTIMATE ONLY. SUBJECT TO CHANGE WITHOUT NOTICE. ACTUAL COSTS WILL BE AVAILABLE 60 DAYS AFTER ELECTION.**

- Footnotes:**
- The base charge is \$0.66 per registered voter for the first issue on the ballot and \$0.20 for every additional issue on the ballot for the same registration. Base charge covers all costs of election, with the exception of ballot printing. Election costs include salaries & benefits of employees, poll worker's stipend, rental of polling places, costs of precinct supplies, postage, etc.
  - DRE (or the electronic voting equipment) is \$0.24 per registered voter for the first issue on ballot and \$0.05 for every additional issue on the ballot for the same registration. This recovery fee is for five years, from FY 2004 - FY 2008.
  - Absentee Voter charge is \$0.17 per registered voter for the first issue on ballot and \$0.04 for every additional issue on the ballot for the same registration. Shared ballot printing costs cover the printing costs of the front and back cover pages, instruction pages, and the voting pages in the sample ballot booklet. It also includes the cost of paper ballots to be provided at the polling places, as required by the Secretary of State's Office. The ballot printing cost for Primary Election is estimated to cost approximately twice as much as a General Election.
  - In the Primary Election, each booklet is printed for each of the 8 political parties in 5 languages, whereas in the General Election, only one consolidated booklet is printed for each of the 5 languages.
  - Cost of proposition pages covers the cost of typeset, translation, proofing and printing of text and other related information in the sample ballot booklet.
  - Cost of candidate statement pages covers the cost of typeset, translation, proofing and printing of text and other related information in the sample ballot booklet.

Prepared by: CAROLINA R. PRADO



Attorneys at Law

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(415) 274-8770 (Fax)

March 14, 2006

Rod Diridon, City Clerk  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050

RECEIVED

MAR 15 2006

City Clerk's Office  
City of Santa Clara

Re: Notice of Intent to Circulate Petition and  
Proposed Amendment to City Charter

Dear Mr. Diridon:

I am enclosing a Notice of Intent to Circulate Petition, signed and sponsored by State Senator Elaine Alquist, Mayor Patricia M. Mahan and Councilmember Patrick E. Kolstad together with the proposed City Charter language amendment.

Pursuant to California Election Code Section 9202, the above-named initiative sponsors are requesting the preparation of a ballot title and summary. A check in the amount of \$200, payable to the City of Santa Clara is also enclosed.

Thank you for your early attention to this matter. If you have any questions about the enclosed materials, please call me or have someone in the City Attorney's office call me at (415) 274-8700.

Very truly yours,

Alan C. Davis

cc: Senator Alquist (w/enc.)  
Mayor Mahon (w/enc.)  
Councilmember Kolstad (w/enc.)  
Gary Niblock (w/enc.)  
Patrick Nikolai (w/enc.)

Enc.

## NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Santa Clara for the purpose of amending the Charter of the City of Santa Clara **TO PROVIDE IMPARTIAL IMPASSE RESOLUTION PROCEDURES** for wage, benefit and working condition disputes involving fire fighters and police officers and the City of Santa Clara. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

*It is the intent of this Section to promote stable employment relations between the City of Santa Clara and its fire fighters and police officers by establishing a framework for good faith negotiations, including impasse resolution procedures and impartial arbitration of wage, benefit and working condition disputes for fire fighters and police officers so that such disputes may be resolved peacefully and equitably.*

Sponsors:

Patrick Kotstad 2858 Ponderosa Way  
SANTA CLARA, CALIF. 95051 3/10/06  
[Date]

Art Mihan 1116 Washington Street  
Santa Clara CA 95051 3/10/06  
[Date]

Elaine Alquist 1824 Catherine St  
Santa Clara, CA 95050 3/13/06  
[Date]

**Article XI, Sec. 1109.**

**Impartial Arbitration for Fire and Police Department  
Employee Disputes**

(a) **IMPARTIAL ARBITRATION - DECLARATION OF POLICY.** It is hereby declared to be the policy of the City of Santa Clara that strikes by fire fighters and police officers are not in the public interest and should be prohibited, and that a method should be adopted for peacefully and equitably resolving disputes that might otherwise lead to such strikes.

(b) **PROHIBITION AGAINST STRIKES.** No City of Santa Clara fire fighter or police officer shall wilfully engage in a strike against the City. Any such employee against whom the City brings charges of failing to report for work as part of a strike shall be subject to dismissal from his or her employment in the event the charges are sustained upon conclusion of the proceedings that are required by law for the imposition of disciplinary action upon said employee.

(c) **OBLIGATION TO NEGOTIATE IN GOOD FAITH.** The City of Santa Clara through its duly authorized representatives, shall negotiate in good faith with recognized employee organizations of the City of Santa Clara Fire Department and the City of Santa Clara Police Department on all matters relating to the wages, hours, and other terms and conditions of City employment, including the establishment of procedures for the resolution of disputes concerning the interpretation or application of any negotiated agreement. Unless and until agreement is reached through negotiations between the City of Santa Clara and a recognized employee organization representing Bargaining Unit 1, which includes, but may not necessarily be limited to, the classifications of Firefighter, Driver/Engineer, Fire Captain, Fire Paramedic, Deputy Fire Marshall and Assistant Training Officer, or between the City of Santa Clara and a recognized employee organization representing Bargaining Unit 2, which includes, but may not necessarily be limited to, the classifications of Police Officer, Police Sergeant, Police Lieutenant and Police Recruit, or determinations are made through the arbitration procedure hereinafter provided, no existing benefits or conditions of employment for said fire department or police department employees shall be eliminated or changed.

(d) **IMPASSE RESOLUTION PROCEDURES.** Notwithstanding any other provision in this Charter, all disputes or controversies pertaining to wages, hours, or terms and conditions of employment which remain unresolved after good faith negotiations between the City of Santa Clara and a recognized fire department employee organization or police department employee organization which represents the bargaining unit classifications set forth in subsection 1109(c) above, shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the City or by the recognized employee organization.

Representatives designated by the City of Santa Clara and representatives of the recognized employee organization involved in the dispute shall each appoint one arbitrator to the Board of Arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the Arbitration Board shall be selected by agreement between the two arbitrators selected by the City and the employee organization, and shall serve as the neutral arbitrator and Chairperson of the



Board. In the event that the arbitrators selected by the City and the employee organization cannot agree upon the selection of the third arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, then either party may request the State of California Mediation and Conciliation Service to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the arbitrators selected by the City and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) to act as the third arbitrator, they shall alternately strike names from the list of nominees until one name remains and that person shall then become the third arbitrator and chairperson of the Arbitration Board.

Any arbitration proceeding convened pursuant to this Article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The Arbitration Board shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The Arbitration Board, in the exercise of its discretion, may meet privately with the parties and mediate or mediate-arb issues in dispute. The Arbitration Board may also adopt such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

At the conclusion of the arbitration hearings, the Arbitration Board shall direct each of the parties to submit, within such time limit as the Arbitration Board may establish, a last offer of settlement on each of the issues in dispute. The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms with those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment, including, but not limited to, changes in the average consumer price index for goods and services, the wages, hours, and other terms and conditions of employment of other employees performing similar services, and the financial condition of the City of Santa Clara and its ability to meet the cost of the award.

After reaching a decision, the Arbitration Board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Arbitration Board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten day period the parties may meet privately, attempt to resolve their differences, and by mutual agreement amend or modify any of the decisions of the Arbitration Board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of the Arbitration Board, incorporating any amendments or modifications agreed to by the parties, shall be publicly disclosed and shall be binding upon the parties. The City of Santa Clara and the recognized employee organization shall take whatever action is necessary to carry out and effectuate the final Arbitration Board award and incorporate any amendments or modifications agreed to by the parties as provided above.

The expenses of any arbitration convened pursuant to this article, including the fee for the services of the Chairperson of the Arbitration Board, shall be borne equally by the parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.

**AN INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS**

**The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:**

**A MEASURE AMENDING THE CITY CHARTER OF THE CITY OF  
SANTA CLARA TO REQUIRE THAT UNRESOLVED LABOR  
DISPUTES BETWEEN THE CITY AND THE POLICE OFFICERS'  
ASSOCIATION AND THE FIREFIGHTERS' ASSOCIATION BE  
RESOLVED BY BINDING ARBITRATION**

This measure would amend the City of Santa Clara ("City") Charter to create a new mechanism to resolve labor disputes between the City, the Santa Clara Police Officers' Association and the Santa Clara Firefighters' Association (collectively "Public Safety Employees" or "PSE"). This measure would prohibit the City from eliminating or changing any existing benefits or conditions of employment for Public Safety Employees unless such change was either (1) the result of a negotiated agreement or (2) ordered as a result of the proposed new binding arbitration process discussed below.

The binding arbitration process would supercede the existing City dispute resolution process pertaining to wages, hours or other terms and conditions of employment. The measure would also require the establishment of procedures for the resolution of disputes concerning the interpretation or application of any negotiated agreement.

This measure would require that all unresolved disputes pertaining to wages, hours or other terms and conditions of employment for PSE be submitted for binding arbitration before a three-member Board of Arbitration ("Board"). City and PSE would each select one arbitrator. The third arbitrator would be selected in accordance with the procedure set forth in the measure. The third arbitrator would serve as the neutral arbitrator and also as the chairperson of the Board. In the event City and PSE cannot agree on the third arbitrator, alternative selection procedures are provided.

The arbitration would be conducted in accordance with certain provisions of the California Code of Civil Procedure. At the conclusion of the arbitration hearings, the Board would direct each of the parties to submit a last offer of settlement on each of the issues in dispute. The Board would decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms with those factors traditionally taken into consideration in the determination of wages, hours and other terms and conditions of public and private employment, including, but not limited to, changes in the average consumer price index for goods and services, wages, hours and other terms and conditions of employment of other employees performing similar services, and the financial condition of the City and its ability to meet the cost of the binding arbitration award.

The parties would have ten days after the Board's decision to privately meet and attempt to mutually agree upon any modifications to the award. At the end of the ten-day period, the award, including any modifications agreed upon, would be publicly disclosed and become binding on the parties.

The Board's decision would become binding without City Council or voter approval. City and PSE would carry out and effectuate the final Board award. Expenses of the arbitration would be borne equally by the parties.

*Prepared by Michael R. Downey, City Attorney*